

# LIBERTY ADVOCATE.

WHEN POWERS ARE ASSUMED WHICH HAVE NOT BEEN DELEGATED, A NULLIFICATION OF THE ACT IS THE RIGHTFUL REMEDY.—Jefferson.

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## POLITICAL.

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TO THE YOUNG MEN OF OHIO.—No. III.

FELLOW-CITIZENS.—The course which I have marked out to be pursued in these essays, will lead me, though reluctantly, to review the celebrated letter of the late venerable ex-President Madison to the editor of the "North American Review," in which he denounces nullification, and in my humble opinion repudiates his former political opinions. I am well aware of the magnitude of the task, and nothing short of the invincibility of truth, and of having Mr. Madison's former opinions to quote against this letter, could impel me to undertake it.

Principles are immutable, while fallible beings are always liable to change. In the course of these essays, I will endeavor to show that Mr. Madison has, in this "letter," and in his letter to Mr. Ingersoll, failed to refute his former able and unanswerable arguments in favor of "State interposition," and against the constitutionality of the United States Bank. The advocates of the proclamation, who profess to be democrats, refer to this letter from the pen of Mr. Madison, as a triumphant refutation of the State Rights doctrine. But at the same time they are silent as the grave in regard to his letter to Mr. Ingersoll on the bank question. Such a course speaks but little for political honesty, though in the absence of argument, it is perfectly natural to refute the doctrine of State Rights by the authority of a great name, even though that name would not be authority on the bank question.

The advocates of the proclamation, who honestly avow that they are federalists, take a different and correct view of this "letter." They see in the doctrine it inculcates, an abandonment of the high and noble stand taken by Virginia and Kentucky in 1798 against the "Alien and Sedition Laws." From the above remarks it will be inferred that Mr. Madison's "letter" is deemed defective in point of argument.

This, notwithstanding his eminent talents, is true; and it should have no more weight than it really merits. To pin our faith on the sleeve of any man merely because he has a great name, without weighing his reasons as impartially as if we knew not the author, would be a base surrender of our opinions for his; and not a conviction by argument that we were in error.

Before reviewing Mr. Madison's "letter," it may throw some light on the subject, and tend to elicit truth, to take a retrospective view of parties during his administration of the General Government, and also his course in relation to the Bank of the United States.

During Mr. Madison's administration we engaged in the late war with Great Britain. The course of the Federalists during that crisis is believed to have been an unwarrantable opposition to Madison's administration more than to the war; for the very same persons, composing the same party, a few years previously had been the untiring advocates of a war with France—our ancient friend and ally, notwithstanding, when the "tug of war" came, they thought it "unbecoming a moral and religious people to rejoice at our victories." The fact is, that the signal defeat of the party and their high pressure system of "Alien and Sedition Laws," by the election of Mr. Jefferson, still rankled in their hearts, and they hoped by opposing the war, and rendering its termination inglorious, to re-instate themselves in power. In this, however, they were again signally defeated; for the tide of public opinion was still against them. Unfortunately for the cause of correct and liberal principles, a combination of circumstances has again given the ascendancy to the political principles of the Federalists.

As extremes always produce extremes, so the intense party strife during the war was succeeded by a perfect calm, in which all of democracy had been lost, save the empty name.

In producing this fatal calm no one individual effected so much as Mr. Carey in his "Olive Branch," a work well known to politicians of that day. To his work may be attributed the commencement of that decline in asserting and maintaining the principles of the Democratic party, which has eventually rendered the citizen odious, who dares to assert the political principles laid down by Mr. Jefferson, the father of Democracy—the principles which alone can preserve the rights of the States, and the liberties of the people.

Mr. Carey, formerly a professed Democrat, in scoring the Federalists for their errors, thought fit to castigate the Democrats also.

That they too have erred is conceded; but Mr. Carey to effect a reconciliation, if not to effect the entire overthrow of the Democratic party, takes the old Federal tack, and applauds the "Alien and Sedition Laws," not only as expedient but as constitutional.

But to remove all doubts, let Mr. Carey

speak for himself. "The so styled sedition law was a measure not merely defensive, but absolutely necessary and indispensable towards the support of the Government."

Again he says—"The Alien and Sedition Laws were made the subject of an elegant, but violent and inflammatory report, agreed to by the legislature of Virginia, as respectable and enlightened a deliberative body as any in the United States, or perhaps in the world. But they were bitten by the mad dog of faction, in common with a large portion of their fellow citizens."

Speaking of the Federal constitution, Mr. Carey says—"Had the real Federalists in the convention succeeded, and made the General Government somewhat more energetic—endowed it with a small degree more of power—it might endure forever."

From the above extracts it is clear and indisputable that Mr. Carey was at that time a Federalist, notwithstanding he had formerly acted with the Democratic party. The truth is, that the Democrats were so far from being under the influence of "hydrophobia," that Mr. Carey or any one else is challenged to produce a more calm and dignified set of opinions on any political subject, than the Virginia and Kentucky resolutions, and Mr. Madison's report on the former.

If Mr. Carey is correct, the Democratic party of 1798 deserve the execration of mankind, instead of having their political opinions laid down in the "INFLAMMATORY" resolutions of Virginia and Kentucky, adopted as a "Text Book," at some crisis or other, by nearly all if not by every State in the Confederacy.

Ohio, in the Bank controversy, adopted these resolutions as containing the true theory of our institutions. Were her Senators and Representatives, amongst whom was W. H. Harrison, "bitten by the mad dog of faction?" If so, why in the name of common sense do Whigs and Royalists all claim the title of Democrats; and thus subject themselves to be styled by Mr. Carey, mad dog factionists?

"Had the Federalists succeeded," says Mr. Carey, "and endowed the General Government with more power, it might endure for centuries." Who, after this will accuse Mr. Carey of being a Democrat? I appeal, fellow-citizens, to your patriotism, to your good sense and discretion, and ask if there is one man amongst you who would not much rather see the General Government shorn of its usurped powers than to see them extended one iota further, even by constitutional grants? Where is the public money, and who assumed the "responsibility" of its removal from the depository selected by the Representatives of the States? Whose mandate decides what shall be taken in payment for public lands, and at the Post Offices what shall be received for postage? and in fine, is not the arbitrary will of one man the supreme law of this Confederacy? Does not this man merit the title of "usurper" and his despicable minions, that of "royalists," when they salute the ears of his majesty with the air of "What'll be King but Charlie?"

The following resolve of the Philadelphia royalists is in print, and proves the servile spirit of the times: "Resolved, that to uphold the orders of the Executive, (Martin the 1st, Autocrat of all the States,) either now issued, or hereafter to be issued, we hold ourselves ready to organize in this city and county a first volunteer legion of ten thousand men, (serfs,) to be as shortly as possible fully armed and equipped." Can the royalists of Virginia, good old Virginia, read this resolution without a burning cheek—without an involuntary sigh that they are apostates from that party whose predictions, in an "address to the people of Virginia on the Alien and Sedition laws," are thus fully verified? Can any one who has the soul of a man, and the proud spirit of a freeman, feel unmoved at such degrading subserviency?

But to return from this digression. Mr. Carey had an undoubted right to change his political opinions and his honesty, in avowing that change is the mark of an honest man. But that he has erred in conceding too much is evident from the fact, that the General Government is regularly concentrating all power in itself, and that power as regularly and naturally concentrating in the Executive. The excellencies of the "Olive Branch," in other respects, is the cause that gave popularity to Mr. Carey's fatal error of relinquishing the characteristic and fundamental principles of the Democratic party—principles which led them to victory, but which are now unhappily abandoned for an empty name. As the immoral man finds it necessary to assume the semblance of virtue to pass himself off to advantage, so the politician clings, with the convulsive grasp of a drowning man, to the "text book of Democracy" for fear of being termed, what he knows himself to be, a Federalist. Is this not true to the letter? or would the magic of a name have so much power, if the principles of the party who adopted it were only the effusions of "mad dog factionists?"

The first four years of General Jackson's administration seemed to revive the neglected and forgotten principles of the Democratic party, as will appear by his inaugural and other messages, up to the date of the proclamation; and by his course on the Georgia Indian case, which President Adams had decidedly opposed in the assertion "that a power higher than human would impel him to force Georgia into submission." About this time South Carolina, wearied with ten years petition, remonstrance, and protest, threw herself on her sovereignty, and passed her "Ordinance of Nullification." Here General Jackson, notwithstanding his course on the Georgia case, rose in evidence of his tergiversation, turned a political somersault, issued his proclamation, and would, no doubt, (had Van Buren's "First Volunteer Legion of ten thousand men been then organized, armed, and equipped") have marched at their head to force South Carolina "into submission," in imitation of his predecessor's menace against Georgia. Here too Mr. Carey again stepped forth with his "Olive Branch" in the one hand, and the sword of Federal power in the other, to read South Carolina a lecture on the duties of submission to Federal supremacy. In this Mr. Carey was perfectly consistent, for having abandoned the principles of the Democratic party, and declared that the authors of the Virginia and Kentucky Resolutions were "bitten by the mad dog of faction," he could not do otherwise than oppose South Carolina, when he saw her putting in practice the very theory which he had condemned as canine madness.

Here, fellow-citizens, we see the course of an honest man, and what is unfortunately too rare a commodity, an honest politician. The example is worthy of imitation. Let every politician, therefore, examine the doctrines of the two parties and render a verdict according to law and evidence. PATRICK HENRY.

TO THE YOUNG MEN OF OHIO.—NO. IV. FELLOW-CITIZENS.—Mr. Madison is well known as the author of the justly celebrated Virginia resolutions of 1798, and the Report on said Resolutions of the following year. In 1792, Mr. Madison distinguished himself by his speech against the "God Fishers' Bill," and in 1794, by his celebrated speech against the charter of the United States Bank. All these documents, and others that might be referred to, evince in Mr. Madison an able, argumentative, and unbending opposition to the encroachments of the General Government on the reserved rights of the States.

The great ability displayed in the last speech will induce me to make lengthy extracts from it, in order to prove that Mr. Madison was unable, in his letter to Mr. Ingersoll, to refute his former arguments against the Bank. After a general review of the advantages and disadvantages of banks, Mr. Madison said, that "in making these remarks on the merits of the bill, he had reserved to himself the right to deny the authority of Congress to pass it. He had entertained this opinion from the date of the Constitution. His impression might be stronger, because he well remembered that a power to grant charters of incorporation had been proposed in General Convention and rejected." He continues: "Is the power of establishing an incorporated bank among the powers vested by the Constitution in the Legislature of the U. States? This is the question to be examined." After some general remarks on the limitation of all political powers, he took notice of the peculiar manner in which the Federal Government is limited. It is a general grant, out of which particular powers are excepted. It is a grant of particular powers only, leaving a mass in other hands.

As preliminaries to a right interpretation, he laid down the following rules:—An interpretation that destroys the very characteristic of the Government, cannot be just. Where a meaning is plain, the consequences whatever they may be, are to be admitted. Where doubtful, it is fairly triable by its consequences. In admitting or rejecting a constructive authority, not only the degree of its incidentality to an express authority is to be regarded, but the degree of its importance also; since on this will depend the probability of its being left to construction.

"Reviewing the Constitution with an eye to these positions it was impossible to discover in it the power to incorporate a bank. The only clauses under which such a power could be claimed are either—1st, The power to lay and collect taxes, to pay debts, and provide for the common defence and general welfare—or 2d, The power to borrow money on the credit of the United States—or 3d, The power to pass all laws necessary and proper to carry into effect these powers."

"The bill did not come within the first power. It laid no tax to pay the debts or provide for the general welfare. No arguments could be drawn from the terms 'common defence and general welfare.' To understand these terms in any sense that would give to Congress an unlimited power, would render nugatory the enumeration of PARTICULAR POWERS—would supersede all the POWERS RESERVED TO THE STATE GOVERNMENTS."

"The second clause to be examined, is that which empowers Congress to borrow money. Is this a bill to borrow money? It does not borrow a shilling. The obvious meaning of the power to borrow money, is that of accepting it from, and stipulating payment to, those who are able and willing to lend. To say that the power to borrow involves a power creating the ability, where there is the will to lend, is not only a dangerous principle, but as forced a construction as to say that it involves the power of compelling the will, where there is the ability to lend."

"The third clause is that which gives the power to pass all laws necessary and proper to execute the specified powers."

"Whatever meaning the clause may have, none can be admitted that would give an unlimited discretion to Congress. Its meaning must, according to the natural and obvious force of the terms, be limited to MEANS NECESSARY to the end, and incident to the execution of the special powers. The essential characteristic of the government, as composed of limited and enumerated powers, would be destroyed, if instead of direct and incidental means, any means could be used which, in the preamble of the bill, 'might be conceived to be conducive to the successful conducting of the finances, or might be conceived to tend to give facility to the obtaining of loans.'"

"He urged an attention to the diffuse and ductile terms which had been found requisite to cover the stretch of power contained in the bill. He compared them with the terms 'necessary and proper,' used in the constitution, and asked whether it was possible to view the two descriptions as synonymous?"

Mr. Madison continues: "The doctrine of implication is always a tender one. The danger of it has been felt in other governments. The delicacy was felt in the adoption of our own; and the danger may also be felt, if we do not keep close to OUR CHARTERED AUTHORITIES."

"If implications, thus remote and thus multiplied, can be linked together, a chain may be formed that will reach every object of legislation—every object within the whole compass of political economy."

He concluded this masterly argument by asserting that, "It appeared on the whole that the power exercised by the bill was—

"CONDEMNED by the silence of the Constitution.

"CONDEMNED by the rule of interpretation arising out of the Constitution.

"CONDEMNED by its tendency to destroy the main characteristic of the Constitution.

"CONDEMNED by the expositions of the friends of the Constitution whilst depending before the public.

"CONDEMNED by the apparent intention of the parties which ratified the Constitution.

"CONDEMNED by the explanatory amendments proposed in Congress to the Constitution.

"And he hoped it would receive its final condemnation by the vote of this House."

Such are the views entertained by Mr. Madison, in 1794, on the constitutionality of that Bank, to which he afterwards gave the sanction of his name. From the perusal of this celebrated speech, no man can rise without feeling a conviction of his inability to controvert the strong and unanswerable arguments of the Speaker. Even Mr. Madison himself, in his letter to Mr. Ingersoll, has completely failed in demolishing the noble superstructure which he erected while his intellect was unimpaired.

Aware of his own powerful arguments against the Bank, Mr. Madison in his letter to Mr. Ingersoll, builds wholly on precedents, as if persistence in error and usurpation could ever transmute the former into truth, or offer an apology for the latter.

The Ingersoll letter shall be the subject of another number. PATRICK HENRY.

P. W. FARRAR.—On another page will be found the address of P. W. Farrar, Esq. of Wilkinson county. He holds out the true line and plummet by which the measures of the Federal Government are to be measured. We approve in toto, of his principles. There is only one point in which there is a semblance of tripping. He says, in speaking of the several rights of the States, that he holds it not only a proud privilege but the solemn duty of the State so to apply that check "as not to dissolve the Union." The State has no agency in dissolving the Union which she merely renders an unconstitutional law inoperative within her borders. If the federal government perseveres in enforcing a compliance with its usurpations at the point of the bayonet, and a dissolution of the Union is the consequence, the State is not responsible for the evil. Suppose a majority of Congress representing, as they do, the free states of the Union, should pass a law emancipating

slavery and the Southern States, as they inevitably would, should nullify the flagrant usurpation, are they to palter with their own rights and interests in order to save the Union, while the usurpers are cutting their throats and depriving of life and property? No, no; if the Union is dissolved in such a conflict, the federal usurpers are alone responsible. The Tariff, the alien and sedition laws, and every other unconstitutional exercise of power by the general government, stand precisely in the same position. The State in arresting the usurpation in her own limits—in abating the nuisance, and standing on her reserved rights, acts merely on the defensive; and if the Union should be dissolved, it must of necessity result from usurpation and violence of the federal government.—Vicksburg Sentinel and Expositor.

J. F. H. CLAIBORNE.—The deeply laid scheme of deception with which this gentleman has been enabled to make his way to Congress, has given him a degree of notoriety that his other talents would have failed to produce. While his political opponents and those who have been induced to vote for him from his artful misrepresentation of his principles, look upon his conduct with that indignant scorn which prevarication and deception should always awaken in a manly bosom, his own political friends must despise him in their hearts. So contemptible has he become in the eyes of the virtue and intelligence of Mississippi that we would not be surprised to find him several hundred votes behind Mr. Gholson at the November election.

Mr. Claiborne has, by some such management as that by which he succeeded in deceiving the public in relation to his political opinions, contrived to impose himself on a portion of the community as a man of talents. We have a notion of probing this subject, and if possible, to find out on what foundation such an opinion rests. We have never seen anything from his pen to justify such a sentiment. We have read his speeches in Congress and his electioneering letters; and in our opinion he has never given birth to an idea beyond what may be daily met in the scholastic exercises of the junior students in any of our respectable grammar schools. We think we will be able to give data for this opinion.—Vicksburg Sentinel and Expositor.

## CANADA.

The following resolutions were unanimously adopted by a large meeting held in the district of Quebec. There is in them, as the New York Express observes, something "which sounds very much like the rumblings that were heard in Boston and Virginia, in days of yore."

Resolved 6. That this absence of all sympathy on the part of the majority of British Commons, and the unjust and tyrannical measures adopted by his Majesty's ministers towards us, will OBLIGE US TO LOOK ELSEWHERE for that justice and protection which we had a right to expect from the Imperial Government pursuant to the reciprocal engagements which unite us to that power.

Resolved 7. That inasmuch as the Imperial Parliament has violated our Constitution, by depriving the House of Assembly of the exclusive control of the Revenue levied on the Canadian people—the only constitutional means of resisting the numerous encroachments of the other branches of the Colonial Government on the best established and most correctly defined rights of the People—WE CONSIDER AS BROKEN AND VOID THE SOCIAL COMPACT THAT CONNECTED US TO THE BRITISH EMPIRE, in failing in its obligations that treaties are imposed upon us in regard to it."

A tough Question.—We have heard it stated that Maj. McNutt, in his speech at the court house in this town on the 21st inst., mentioned that in 1823 while travelling from Virginia, he was obliged to suffer himself to be shaved on his Virginia money. A gentleman who was listening to his speech, asked the Major if he had ever been shaved on United States Bank money. The question was a poser, and the candidate made this clear and explicit answer:—"Sir, I am neither a Shylock nor a shaver." This answer is worthy of Mr. Van Buren himself.—Argus.

YELLOW FEVER.—We are informed by a gentleman just returned from the city, that he went to the Lake a few days since, on a pleasure excursion, in company with six others, all in good health and spirits. Two days afterwards four of the party died of yellow fever. The gentleman who brought the information is, we are happy to say, alive.—Baton Rouge Gas.

"Mr. Jefferson is considered by us as good authority."—Southern Argus.

"The Argus advocates the United States Bank."—Grand Gulf Advertiser.

We advocate a United States Bank. Turn to the first number of your paper, Mr. Advertiser, and tell us what you advocated in it.—S. Argus.